

U

Notice of Allowability	Application No.	Applicant(s)	
	10/622,898	GLINER ET AL.	
	Examiner	Art Unit	
	Carl H. Layno <i>Carl H. Layno</i> 5/23/05	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 03222005.
2. ☒ The allowed claim(s) is/are 3,6-8,10,11,13,15 and 17-56.
3. ☒ The drawings filed on 17 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>3/22/05</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment which was received by the Office on March 22, 2005.

2. Claims 1, 2, 4, 5, 9, 12, 14, and 16 are canceled. Claims 51-56 have been added. Claims 3, 6-8, 10, 11, 13, 15, and 17-56 are active.

Information Disclosure Statement

3. Acknowledgment is made of applicant's Information Disclosure Statement (PTO-1449) which was received by the Office on March 22, 2005.

Claim Rejections - 35 USC § 103

4. In view of applicant's cancellation of claim 2, the Examiner is withdrawing the 35 U.S.C 103(a) rejection of Firlik et al '419-A1 in view of Gluckman et al '562, which was made against this claim in the last Office action.

Allowable Subject Matter

5. Claims 3, 6-8, 10, 11, 13, 15, and 17-56 allowed.

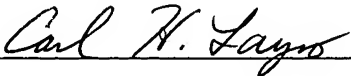
Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance:

Art Unit: 3762

The applicant's independent claims recite details of methods for treating essential tremor in a patient comprising among other steps an initial step of "directing a patient to perform a muscle action" not found in any of the prior art references of record. Although it is well known in the prior art to treat essential tremor in a patient by the use of electrical stimulation of motor nerves (e.g. Cohen et al '415-A1, cited herein) or portions of the brain which are responsible for motor skills (e.g. transcranial direct current stimulation – tDCS), it is neither shown nor taught in the prior art to "direct" a patient to perform a muscle action in order to glean information useful in controlling electrical stimulation. The prior references appear to invoke muscle movements by pre-stimulation rather than by asking, or directing, a patient to move a muscle (e.g. Cohen et al '415-A1 – paragraph [0034]). Lacking any specific teachings that perform this step, the Examiner deems claims 3, 6-8, 10, 11, 13, 15, and 17-56 to be allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in cursive script, reading "Carl H. Layno", is written over a horizontal line.

CARL LAYNO
PRIMARY EXAMINER

CHL
5/23/2005